in defendant's office building. Plaintiff claims that defendant was negligent in not having the elevator properly inspected and kept in a safe condition. *Held,* that defendant was liable for negligence.

The court decided this case entirely on the ground that the owner of an elevator is a carrier of passengers, and as such, is under obligations to use the utmost care and diligence in providing and maintaining safe and suitable appliances. *Mitchell* v. *Marker*, 62 Fed. Rep. 139; *Hartford Deposit Co.* v. *Sollitt*, 172 Ill. 222. The same degree of care is not necessary with reference to the surroundings and other structure forming a part of the elevator plant. *McGrell* v. *Building Co.*, 153 N. Y. 271 When accident occurs through the giving way of some portion of the machinery or appliances by which the passenger is carried, in absence of rebuttal testimony offered by carrier, plaintiff is held to have made out a *prima facie* case, establishing the negligence of carrier, and entitling him to recover. *Amer. and Eng. Ency. of Law* (new ed.), vol. 10, page 948; *Treadwell* v. *Whittier*, 80 Cal. 574; *Goodsell* v. *Taylor*, 41 Minn. 207.

CARRIERS—WRONGFUL EJECTION OF PASSENGERS—LIABILITY—LOUISVILLE H. & ST. L. RY. CO. v. JOPLIN, 55 S. W. 206 (Ky.).—In this case the appellee had purchased a ticket on appellant's line, and lost it out of the car window just as the train started. He offered to pay the conductor his ticket fare, which the conductor accepted. Shortly afterward the conductor came back and demanded the train fare, an additional sum which companies are allowed to charge those who travel with no ticket. Appellee refused to pay this sum and was ejected from the car by the conductor in a lonesome spot. *Held,* that he could recover.

The conductor has no right to eject a passenger after having received, as satisfactory, his ticket fare. *Wardwell* v. *Chicago, etc., Ry. Co.*, 56 Minn. 514. It is a well established rule that if a ticket be lost and the owner refuse to pay the fare, he may be summarily ejected. But in this case the conductor having accepted the ticket fare, is precluded from demanding the residue. It may be distinguished from that line of cases where the conductor, having discovered his mistake, is allowed to demand the remainder. *Wardwell* v., *Chicago, etc., Ry. Co.* (supra). In this case no discovery of a mistake is alleged.

CHATTEL MORTGAGES—ADVANCES TO "CROPPER"—TENANCY IN COMMON—MCNIEL v. RYDER, 81 N. W. 830 (Minn.).—This was a contract for the cultivation of a farm on shares, by the terms of which the landlord reserved the title to the cropper's share of the crops raised, as security for advances made to him. *Held,* that the parties thereto, until division, were tenants in common of the crops, and that the contract was in legal effect a chattel mortgage, and was required to be filed on record, as against creditors and subsequent bona fide purchasers.

There is some diversity of opinion in other jurisdictions over this question. See note 1, 8 *A. & E. Encl. of L.* (2d ed.) 323; but the weight of authority seems to be that the legal title, control and possession of the crops shall remain in the owner of the land until the cropper has fully performed, and until there has been a division of the crops, the reservation or contract does not operate merely as a mortgage to secure the landlord, but the title of the entire crop is in him, and it can neither be sold by the tenant, nor levied on by his creditors. 8 *A. & E. Encycl. of L.* (2d ed.) 323–325, and cases cited.

CHECKS—OPERATION—TRANSFER OF TITLE—RICKERT v. SUDDARD ET AL., 56 N. E. 344 (Ill.).—The Mechanics and Traders Savings, Loan & Building Association gave to Mabel T. Rickert, upon her withdrawal from the association, a check on the American Exchange National Bank of Chicago, where the association had sufficient funds to meet it. Before presentation of the check the

State Auditor took charge of the affairs of the association, including the money in the bank. *Held*, that plaintiff was entitled to the full amount of the check, though the association was insolvent at the time it was given.

The doctrine that is sustained by the weight of authority in the United States, is that an unaccepted check drawn in the ordinary form, not describing any particular fund, or using words of transfer of the whole or any part of any amount standing to the credit of the drawer, does not amount to an assignment at law or in equity of the money to the credit of the holder. *Harrison* v. *Wright*, 100 Ind. 515; *Lunt* v. *Bank of North America*, 49 Barb. (N. Y.) 221. Some States hold that the giving of a check transfers to its holder the title to so much of the money in the bank as the check calls for. *Chouteau et al.* v. *Rouse*, 56 Mo. 65. Under the Negotiable Instruments Act, now in force in New York, Connecticut, Massachusetts and some other states, a check of itself does not operate as an assignment of any part of the funds to the credit of the drawer with the bank, and the bank is not liable to the holder, unless and until it accepts or certifies the check.

CONSTITUTIONAL LAW—DEPARTMENT STORES—POLICE POWER—TAXATION—STATUTES—VALIDITY—STATE EX REL. WYATT V. ASHBROOK ET AL., 55 S. W. 627 (Mo.).—An act passed in Missouri in 1899, known as "The Anti-Department Store Act," divided merchandise into a certain number of classes, and prohibited any person, firm or corporation, in towns of 50,000 inhabitants or more and employing fifteen or more clerks, from selling goods of more than one class without first paying a special tax of not more than $500 or less than $300, to be determined by the different commissioners for each city. *Held*, to be unconstitutional.

Such an act is not a proper police regulation, so it contravenes the Constitutional provision which vests the taxing power for municipal purposes in the municipal corporations under authority of the General Assembly. It also violates the Constitutional provision that all taxes for public purposes shall be uniform on the same class of subjects within the limits of the authority levying the tax, and that all taxes shall be levied and collected by a general law. It is aimed directly at department stores in large cities, and as such is distinctly class legislation. *State* v. *Trenton*, 42 N. J. L. 486.

CONTRIBUTORY NEGLIGENCE—STREET REPAIRS—TATJE V. FRAWLEY, 27 South. Rep. 339 (La.).—Defendant contracted with the City of New Orleans to re-arrange the guttering on a certain street, protecting public safety with lights, etc. A hole of three feet in the gutter was left without light or boarding over, into which defendant fell when running for a car at night. *Held*, no recovery.

While the court virtually concedes the negligence of the defendent, it further announces that a man running for a car at night is necessarily so intent on catching the car that he does not take proper care of where he is going, hence finds plaintiff guilty of contributory negligence. Judge Blanchard dissents, but writes no opinion. See *Mahan* v. *Everett*, 50 La. Am. 1167.

CORPORATIONS—DIVIDENDS—TRUST FUNDS—HUNT V. O'SHEA, 45 Atl. Rep. 480 (N. H.).—Suit is brought against defendant as assignee of an insolvent company for a dividend declared some time before its insolvency on stock held by plaintiff, but which dividend was not collected. *Held*, a recovery may be had only on a basis with other creditors.

A dividend declared by a corporation is not a trust fund for the stockholders' benefit, but a debt from the corporation to them. *Lowne* v. *Ins. Co.*, 6 Paige 482, 1 Mor. Priv. Corp., § 445. However, if the company had set funds aside to pay the dividend a trust would have resulted, and the plaintiff would have recovered the entire dividend. *King et al.* v. *R. R. Co.*, 29 N. J. L. 82.